

September 29, 2005
Case No. AUS920010283US1(9000/37)
Serial No.: 09/864,120
Filed: May 24, 2001
Page 13 of 16

-- REMARKS --

A. Claims 6-9, 16-19, and 26-29 were rejected as anticipated by Davis

The rejection of claims 6-9, 16-19, and 26-29 as anticipated under 35 U.S.C §102(e) over Davis is traversed. In order to maintain this §102(e) rejection, each and every element of the claimed invention must be disclosed in as great detail by the reference. Because the reference does not disclose each and every element, this rejection must fall.

At a minimum, Davis does not disclose “importing a translated text file corresponding to the master text file” as claimed in claims 6, 16, and 26. (emphasis added). Rather, Davis discloses a method and apparatus for translating between source and target code.

Notably, the Examiner fails to indicate exactly where in Davis such a disclosure is made, instead citing generally to the existence of translated text files at column 4, lines 40-42. However, Davis does not teach importing the translation text file corresponding to the master text file. Instead, the translation file 28 of Davis is the result of the method disclosed by Davis in FIG. 2. See, Davis, FIG. 2, column 7, lines 23-67. “In this way, the source file 24 is efficiently and accurately translated into the translation file 28” Column 7, lines 65-67.

In other words, Davis discloses a method intended to create an accurate translation (see column 7, lines 65-67), while the claimed method manages translation of a master text file by importing an already translated text file corresponding to the master text file and performing additional steps.

Therefore, Davis cannot anticipate independent claims 6, 16, and 26, nor claims 7-9, 17-19, and 27-29 depending from claims 6, 16, or 26 respectively. Withdrawal of the rejections to claims 6-9, 16-19, and 26-29 is requested.

September 29, 2005
Case No. AUS920010283US1(9000/37)
Serial No.: 09/864,120
Filed: May 24, 2001
Page 14 of 16

B. Claims 1, 11, and 21 were rejected as unpatentable over Davis in view of Elsbree

The rejection of claims 1, 11, and 21 as unpatentable is traversed. In order to maintain this rejection, each and every element of the claims must be taught or suggested by the references, alone or in combination; there must be a motivation to combine the references; and the references must be analogous art.

Applicants note that the Examiner fails to illustrate how the similarities in structure and function of Davis and Elsbree render the references analogous art. While it is true that PTO classification is not a sine qua non of analogous art, disjoint in structure and function prevents references from being analogous art. Because the references are non-analogous art, combining their teachings is improper and cannot support a §103(a) rejection.

Furthermore, there is no motivation to combine the references taught by Davis in view of Elsbree, rendering the Examiner's rejection flawed for another reason. The Examiner correctly notes that the level of skill in the art does not act as a bridge over gaps in the substantive presentation of an obviousness case. However, the Examiner must prove that the teachings of Davis and Elsbree would suggest the claim limitations, and a conclusory statement cannot satisfy the Examiner's burden.

Furthermore, the teachings of Davis directly teach away from the claimed elements. It cannot be credibly argued that a method of accurately translating text (i.e. Davis' method and apparatus for translating between source and target code) would teach methods of managing a translation of a master text file including importation of a previously translated file.

Withdrawal of the rejections to claims 1, 11, and 21 is requested.

September 29, 2005
Case No. AUS920010283US1(9000/37)
Serial No.: 09/864,120
Filed: May 24, 2001
Page 15 of 16

C. Claims 2-4, 12-14, and 22-24 were rejected as unpatentable over Davis in view of Elsbree and further in view of McKeeman

The rejection of claims 2-4, 12-14, and 22-24 as unpatentable is traversed. In order to maintain this rejection, each and every element of the claims must be taught or suggested by the references, alone or in combination; there must be a motivation to combine the references; and the references must be analogous art.

Additionally, claims 2-4, 12-14, and 22-24 depend directly or indirectly from claims 1, 11, or 21, and are therefore patentable over Davis in view of Elsbree in view of McKeeman for at least the same reasons as above.

Withdrawal of the rejections to claims 2-4, 12-14, and 22-24 is requested.

D. Claims 5, 15, and 25 were rejected without statutory citation

The rejection of claims 5, 15, and 25 is traversed. Claims 5, 15, and 25 depend from claims 1, 11, or 21, respectively, and are therefore patentable over the prior art for at least the same reasons. Applicants specifically request that the Examiner provide a citation to law to support this rejection.

The Applicants traverse the Examiner's statement that "it would have been to a person of ordinary skill in the art" (sic) "in order to indicate a need for adding new translated portions in the target text."

Withdrawal of the rejections to claims 5, 15, and 25 is requested.

E. Claims 10, 20, and 30 were rejected as unpatentable over Davis

The rejection of claims 10, 20, and 30 is traversed. Claims 10, 20, and 30 depend from claims 6, 16, or 21, respectively, and are therefore patentable over the prior art for at least the same reasons.

Withdrawal of the rejections to claims 5, 15, and 25 is requested.

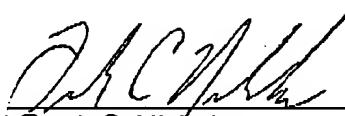
September 29, 2005
Case No. AUS920010283US1(9000/37)
Serial No.: 09/864,120
Filed: May 24, 2001
Page 16 of 16

CONCLUSION

The Applicants respectfully submit that claims 1-30 fully satisfy the requirements of 35 U.S.C. §§102, 103 and 112. In view of the foregoing, favorable consideration and early passage to issue of the present application is respectfully requested.

Dated: September 29, 2005

Respectfully submitted,
KEVIN R. HOLUBAR, *et al.*



Frank C. Nicholas
Registration No. 33,983
Attorney for Applicants

CARDINAL LAW GROUP
Suite 2000
1603 Orrington Avenue
Evanston, Illinois 60201
Phone: (847) 905-7111
Fax: (847) 905-7113